

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition by the United States Department of	)	NSD-L-99-24
Transportation for Assignment of an	)	
Abbreviated Dialing Code (N11) to Access	)	
Intelligent Transportation System (ITS)	)	
Services Nationwide	)	
	)	
Request by the Alliance of Information and	)	NSD-L-98-80
Referral Systems, United Way of America,	)	
United Way 211 (Atlanta, Georgia), United	)	
Way of Connecticut, Florida Alliance of	)	
Information and Referral Services, Inc., and	)	
Texas I&R Network for Assignment of 211	)	
Dialing Code	)	
	)	
The Use of N11 Codes and Other Abbreviated	)	CC Docket No. 92-105
Dialing Arrangements	)	

To: The Commission

**QWEST INTERNATIONAL CORPORATION  
PETITION FOR RECONSIDERATION**

Pursuant to 47 C.F.R. § 1.429 of the Commission's rules, 47 C.F.R. § 1.429, Qwest International Corporation, on behalf of its carrier subsidiaries ("Qwest"),<sup>1</sup> hereby seeks reconsideration of the Commission's *Third Report and Order and Order on Reconsideration* in

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<sup>1</sup> Qwest subsidiaries provide both wireline and wireless services. The instant petition is concerned primarily with issues relating to deployment of 211/511 dialing by wireless carriers. Qwest subsidiaries Qwest Wireless, LLC and TW Wireless, LLC provide broadband PCS services in a number of BTA markets.

the above-captioned proceeding.<sup>2</sup> As discussed below, the Commission should reconsider its decision and not impose 211/511 dialing requirements on mobile wireless providers.

## DISCUSSION

In the *Third Report and Order*, the Commission assigned the abbreviated dialing code 511 to be used for access to traveler information services, and assigned the code 211 to be used for access to community information and referral services. These code assignments are intended to apply to all telecommunications carriers – wireless and wireline alike. As discussed below, however, implementation of uniform 211/511 dialing is impractical and unduly burdensome for wireless carriers and should not be mandated by the Commission. In the *First Report and Order* in this proceeding, the Commission determined that “the burden should be on those who urge the Commission to require . . . [assignment of] N11 codes to show that the benefits of such a requirement outweigh the costs.”<sup>3</sup> The petitions granted in the *Third Report and Order* do not meet this burden as to wireless carriers, and the record of this proceeding does not support the Commission’s decision.

In their petitions for rulemaking, the parties requesting these code assignments – the U.S. Department of Transportation and various “Information and Referral” providers – did not address the potential impact of these code assignments on wireless carriers. While industry commenters raised a number of concerns regarding the impact of mandatory 211/511 dialing,

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<sup>2</sup> *Third Report and Order and Order on Reconsideration*, CC Docket No. 92-105, FCC 00-256 (rel. July 31, 2000) (“*Third Report and Order*”), 66 Fed. Reg. 9674 (Feb. 8, 2001).

<sup>3</sup> *The Use of N11 codes and other Abbreviated Dialing Arrangements, First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket 92-105, 12 FCC Rcd. 5572, ¶ 19 (1997) (“*First Report and Order*”).

there is scant discussion in the *Third Report and Order* regarding the implications of the Commission's decision on wireless carriers.

Industry parties' comments demonstrated that routing for abbreviated dialing calls is far more complex in the wireless context.<sup>4</sup> Unlike landline LEC customers, who call from fixed locations associated with a single geographic address or zip code, cellular and broadband PCS carriers' subscribers are, by definition, mobile, and their phone numbers are not tied to a fixed geographic area or community. The subscriber's number will often have no correlation with the area in which he or she is requesting the 211/511 services, and there are considerable costs in remedying the situation.

In addition, cellular and PCS base stations often serve multiple jurisdictions, and cellular switching facilities almost invariably do.<sup>5</sup> This situation creates enormous difficulties and costs for 211/511 implementation. Qwest's wireless subsidiaries understand that while switch manufacturers have provided for routing 911 calls based on cell site location, switches would require modification by manufacturers to make 211/511 call routing possible – in addition to cell site-level translations that would have to be done on a cell site level.

The Commission understates the impact of its 211/511 mandate on wireless carriers. The Commission states, almost in passing, that all carriers, including CMRS providers, must “take any steps necessary (such as reprogramming switch software) to complete 211 calls to a requesting entity in its service area.”<sup>6</sup> As noted above, a “service area” may include multiple jurisdictions, creating the distinct possibility that carriers will be faced with incompatible

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<sup>4</sup> CTIA Reply Comments at 3; AT&T Comments at 2; Sprint PCS Comments at 2.

<sup>5</sup> Qwest's broadband PCS affiliates, for example, are licensed primarily on a BTA basis. Cellular carriers use MSAs and RSAs, and other broadband PCS licensees use primarily MTAs. Other carriers may use only partitioned pieces of a larger service area.

<sup>6</sup> *Third Report and Order* at ¶ 21.

requests. While “community service organizations” are expected “to work cooperatively,” the Commission provides no guidance as to their obligations if faced with mutually exclusive service requests.

Wireless carriers’ roaming capabilities further complicate 211/511 implementation. Perhaps in tacit acknowledgment of this fact, the Commission suggests, without elaboration, that CMRS providers “negotiate” arrangements with each other to provide roaming subscribers with access to 511 dialing.<sup>7</sup> Also, the Commission does not address how wireless providers should route roamers’ 211 calls.

The *Third Report and Order* also fails to pass muster under the APA. The Commission’s failure to address the significant and relevant issues raised by industry commenters was arbitrary and capricious.<sup>8</sup> Furthermore, the Commission has effectively delegated its plenary numbering administration authority – a matter of relevance to both wireline and wireless carriers; as discussed herein, there is no priority system as to which different local entities are entitled to use these dialing codes and different carriers will face differing degrees of incompatible service requests. As the Federal agency with plenary authority over the use of scarce numbering resources, it is paramount that the Commission address these issues in advance of reserving dialing codes for particular uses.<sup>9</sup> While the Commission has not expressly stated in the *Third Report and Order* that it has further delegated numbering administration authority for N11 codes, it has effectively done so by affording open-ended eligibility as to the entities entitled to these

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<sup>7</sup> *Id.* at ¶ 15.

<sup>8</sup> See *Grand Canyon Air Tour Coalition v. FAA*, 154 F.3d 455, 468 (D.C. Cir. 1998) (“An agency must ... demonstrate the rationality of its decisionmaking process by responding to those comments that are relevant and significant”); *Professional Pilots Federation v. FAA*, 118 F.3d 758, 763 (D.C. Cir. 1997) (same).

<sup>9</sup> See 47 U.S.C. § 251(e).

codes and provided no standards as to who is eligible and how they may be used. The Commission has not simply designated the codes for particular uses – as it purports to do and as Congress recently did with the 911 code – but mandated that particular entities be entitled to them.<sup>10</sup> As the Commission’s apparent delegation of Section 251(e) authority is a legislative rulemaking requiring prior notice and comment, the Commission’s decision is contrary to the notice and comment rulemaking provisions of the APA.<sup>11</sup>

## CONCLUSION

In sum, the difficulties with implementing 211/511 in a wireless environment counsel against mandating that wireless carriers offer such dialing capabilities upon request in the same manner as wireline carriers. At most, the Commission’s rules should accommodate the voluntary provision of such dialing capabilities to that a wireless carrier can work in conjunction with local governments and organizations to an extent consistent with such carrier’s network capabilities, geographic service area, and cost structure. This approach will ensure that the carrier’s 211/511 dialing accounts for the carrier’s particular service area and the capabilities and interests of the affected localities and service organizations. For the foregoing reasons, the

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<sup>10</sup> See *Third Report and Order* at ¶¶ 15, 21.

<sup>11</sup> See *United Technologies Corp. v. EPA*, 821 F.2d 714, 718 (D.C. Cir. 1987) (rule “based on an agency’s power to exercise its judgment as to how best to implement a general statutory mandate . . . is likely a legislative one”).

Commission should reconsider its *Third Report and Order* and not mandate that wireless carriers implement 211 or 511 dialing capabilities on request.

Respectfully submitted,

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